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EXAMINER

NEURAUTER, GEORGE C

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/748,440	Applicant(s) DAUM ET AL.	
	Examiner George C. Neurauter, Jr.	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-5 and 7-29 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 December 2004 has been entered.

Response to Arguments

Applicant's arguments filed 21 December 2004 have been fully considered but they are not persuasive.

The Applicant argues that Koether does not teach wherein the diagnostic interface includes a display. The Examiner does not agree. Koether discloses this limitation as shown in claim 12 (column 7, lines 45-62, specifically lines 59-62).

The Applicant argues that the diagnostic interface is not connected within a building housing the appliance. The Examiner does not agree. Koether discloses that the network to which the

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diagnostic interface is connected may be a wired network (column 5, lines 3-19, specifically 15-16).

Claim Interpretation

A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph if it meets the following 3-prong analysis:

(A) the claim limitations must use the phrase "means for" or "step for";

(B) the "means for" or "step for" must be modified by functional language; and

(C) the phrase "means for" or "step for" must not be modified by sufficient structure, material or acts for achieving the specified function.

With respect to the first prong of this analysis, a claim element that does not include the phrase "means for" or "step for" will not be considered to invoke 35 U.S.C. 112, sixth paragraph. If an applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant must either: (A) amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines; or (B) show that even though the phrase "means for" or "step for" is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, sixth

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paragraph. See *Watts v. XL Systems, Inc.*, 232 F.3d 877, 56 USPQ2d 1836 (Fed. Cir. 2000)

The diagnostic interface of claims 12-21 does not recite means or step plus function language, therefore, these claims do not invoke 35 U.S.C. 112, sixth paragraph since they fail to meet the criteria for this interpretation.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, 7-11, 22, 24, and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5 875 430 A to Koether.

Regarding claim 1, Koether discloses a method of performing service diagnostics on appliances, the method comprising:

connecting a diagnostic interface within a building housing the appliance to a local area appliance network (referred to throughout the reference as "cell"), wherein the diagnostic interface includes a display; (column 5, lines 3-19; column 7, lines 45-62, specifically lines 59-62)

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accessing an appliance in the local area appliance network and performing service diagnosis of the appliance through said diagnostic interface over the local area appliance network using service functions in the appliance. (column 5, line 60-column 6, line 9)

Regarding claim 3, Koether discloses the method of claim wherein accessing further comprises accessing a dedicated appliance controller in an appliance. (Figure 1, element 140; column 4, line 23-column 5, line 2)

Regarding claim 4, Koether discloses the method of claim 1 wherein the service functions comprise safety functions, parameter functions, and appliance status functions. (column 9, lines 3-60, specifically "Type of malfunction")

Regarding claim 5, Koether discloses the method of claim 1 further comprising implementing said diagnostic interface in a computer. (Figure 2, element 155; column 5, line 60-column 6, line 9; column 7, lines 54-62) (see also Figure 8, element 810; column 10, line 1, column 11, line 29)

Regarding claim 7, Koether discloses the method of claim 1 further comprising connecting to a remote system to retrieve service diagnostic information. (column 5, line 60-column 6, line 9, specifically column 5, line 67-column 6, line 5)

Regarding claim 8, Koether discloses the method of claim 1 wherein performing service diagnosis includes diagnosing and servicing the appliance based on the appliance diagnosis. (Figure 7, element 735; column 9, lines 44-60)

Regarding claim 9, Koether discloses the method of claim 8 wherein servicing the appliance comprises patching appliance firmware. (column 5, line 60-column 6, line 9, specifically column 6, line 2)

Regarding claim 10, Koether discloses the method of claim 8 wherein servicing the appliance comprises adjusting appliance parameters. (column 9, lines 44-60, specifically "modify the cooking profiles")

Regarding claim 11, Koether discloses the method of claim 1 further comprising maintaining an external database (Figure 1, element 190) of appliance information based on diagnosis of the appliance. (column 5, lines 50-59; column 9, lines 3-60)

Regarding claim 22, Koether discloses a diagnostic system for provide access to service diagnostics on an appliance, the system comprising:

a local area appliance network ("cell") coupled to the appliance; (column 5, lines 3-36)

a diagnostic interface configured to be connected to said local area appliance network within a building housing the

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appliance, said diagnostic interface comprising a display, wherein said diagnostic interface facilitates accepting service destined for the appliance; ("base station"; Figure 1, element 150; column 5, lines 3-19; column 5, line 60-column 6, line 9; column 7, lines 45-62, specifically lines 59-62) and

a dedicated appliance controller for receiving and executing the diagnostics commands. (Figure 1, element 140; column 4, line 23-column 5, line 2)

Regarding claim 24, Koether discloses the system of claim 22 wherein the diagnostics interface comprises a computer. (Figure 2, element 155; column 7, lines 45-62, specifically lines 59-62)

Regarding claim 26, Koether discloses the system of claim 22 further comprising a communications interface between the local area appliance network and the dedicated appliance controller. (column 5, lines 3-36)

Regarding claim 27, Koether discloses the system of claim 22 further comprising a remote system, the remote system connectable to the diagnostic interface via an Internet connection. (column 5, lines 37-49)

Regarding claim 28, Koether discloses the system of claim 22 wherein the dedicated appliance controller is contained

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within the appliance. (Figure 1, element 140; column 4, line 23-
column 5, line 2)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2, 12-21, 23, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5 875 430 A to Koether in view of US Patent 4 580 256 to Andruzzi et al.

Regarding claim 2, Koether discloses the method of claim 1.

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Koether does not disclose wherein the local area appliance network comprises a power line carrier system, however, Koether does disclose that the local area appliance network may be implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

Andruzzi discloses wherein the local area appliance network comprises a power line carrier system. (column 2, line 44-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Andruzzi discloses that a power line carrier system enables bi-directional data to be communicated within a building via a power line carrier to various devices including appliances within a local area network (column 2, lines 50-64). In view of these specific advantages and that both references are directed to providing communication systems for appliances, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor.

Regarding claim 12, Koether discloses a diagnostic interface ("base station"; Figure 1, element 150) for performing service diagnostics on appliances (column 5, line 60-column 6, line 9), the diagnostic interface comprising:

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a display for viewing diagnostic and service information;
(column 7, lines 45-62, specifically lines 59-62)

processing circuitry for generating service commands for an
appliance. (column 7, lines 45-62, specifically lines 54-57)

Koether does not expressly disclose a power line carrier
communication interface configured to be connected to a local
area appliance network within a building housing the appliance,
wherein said power line carrier communication interface
facilitates transmitting the service commands to the appliance
and receiving appliance diagnostic results on a power line
carrier communication system, however, Koether does disclose a
wired communication interface to accomplish these limitations
(column 5, lines 3-19). Koether also discloses that RF,
microwave, satellite, or infrared communication interfaces may
also be used. (column 5, lines 13-19)

Andruzzi discloses wherein the local area appliance network
comprises a power line carrier system. (column 2, line 44-64).

It would have been obvious to one of ordinary skill in the
art at the time the invention was made to combine the teachings
of these references since Andruzzi discloses that a power line
carrier system enables bi-directional data to be communicated
within a building via a power line carrier to various devices
including appliances within a local area network (column 2,

lines 50-64). In view of these specific advantages and that both references are directed to providing communication systems for appliances, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor.

Regarding claim 13, Koether discloses the diagnostic interface of claim 12 further comprising an appliance bus interface ("wireless means") for communicating with the appliance. (column 5, lines 3-19)

Regarding claim 14, Koether discloses the diagnostic interface of claim 12 further comprising a remote service center interface. (Figure 1, element 175; column 5, lines 37-49)

Regarding claim 15, Koether discloses the diagnostic interface of claim 14 wherein the diagnostic interface gathers appliance statistics to send to a remote service center over the remote service center interface. (column 5, line 60-column 6, line 9)

Regarding claim 16, Koether discloses the diagnostic interface of claim 12 further comprising a user interface to facilitate service diagnostics. (column 7, lines 45-62, specifically lines 59-62)

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Regarding claim 17, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a refrigerator. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 18, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises an oven. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 19, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a heating system. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 20, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a cooling system. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 21, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a lighting system. (column 4, lines 23-36, specifically lines 32-36)

Claim 23 is rejected since claim 23 recites a system that contains substantially the same limitations as claim 2.

Regarding claim 25, Koether discloses the system of claim 22 wherein the diagnostics interface comprises a display device, a microprocessor, a PC card interface, and an appliance bus interface. (column 10, lines 1-22)

Koether does not disclose wherein the diagnostic interface comprises a power line modem, however, Koether does disclose

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that the connection to the local area appliance network by the diagnostics interface may be implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

Andruzzi discloses wherein the local area appliance network comprises a power line carrier system. (column 2, line 44-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Andruzzi discloses that a power line carrier system enables bi-directional data to be communicated within a building via a power line carrier to various devices including appliances within a local area network (column 2, lines 50-64). In view of these specific advantages and that both references are directed to providing communication systems for appliances, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor.

Regarding claim 29, Koether discloses the system of claim 22.

Koether does not expressly disclose wherein the diagnostic interface comprises a power line carrier modem which allows the diagnostic interface to communicate with an appliance via a power line carrier system, however, Koether does disclose that

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the local area appliance network may be implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

Andruzzi discloses wherein the local area appliance network comprises a power line carrier system. (column 2, line 44-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Andruzzi discloses that a power line carrier system enables bi-directional data to be communicated within a building via a power line carrier to various devices including appliances within a local area network (column 2, lines 50-64). In view of these specific advantages and that both references are directed to providing communication systems for appliances, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn



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